

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

WILLIAM L. THOMPSON,

Case No. 3:23-cv-00345-ART-CLB

Plaintiff,

ORDER

v.

PERRY RUSSELL, et al.,

Defendants.

Plaintiff William L. Thompson brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Northern Nevada Correctional Center. (ECF No. 6). On March 13, 2024, this Court ordered Thompson to file a fully complete application to proceed *in forma pauperis* for non-inmates or pay the full \$402 filing fee on or before April 12, 2024. (ECF No. 8). The Court warned Thompson that the action could be dismissed if he failed to file a fully complete application to proceed *in forma pauperis* for non-inmates or pay the full \$402 filing fee for a civil action by that deadline. (*Id.* at 1–2). That deadline expired and Thompson did not file an application to proceed *in forma pauperis* for non-inmates, pay the full \$402 filing fee, or otherwise respond.

# **I. DISCUSSION**

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to

1 dismiss an action on one of these grounds, the Court must consider: (1) the  
2 public's interest in expeditious resolution of litigation; (2) the Court's need to  
3 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
4 favoring disposition of cases on their merits; and (5) the availability of less drastic  
5 alternatives. *See In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217,  
6 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

7 The first two factors, the public's interest in expeditiously resolving this  
8 litigation and the Court's interest in managing its docket, weigh in favor of  
9 dismissal of Thompson's claims. The third factor, risk of prejudice to defendants,  
10 also weighs in favor of dismissal because a presumption of injury arises from the  
11 occurrence of unreasonable delay in filing a pleading ordered by the court or  
12 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir.  
13 1976). The fourth factor—the public policy favoring disposition of cases on their  
14 merits—is greatly outweighed by the factors favoring dismissal.

15 The fifth factor requires the Court to consider whether less drastic  
16 alternatives can be used to correct the party's failure that brought about the  
17 Court's need to consider dismissal. *See Yourish v. Cal. Amplifier*, 191 F.3d 983,  
18 992 (9th Cir. 1999) (explaining that considering less drastic alternatives *before*  
19 the party has disobeyed a court order does not satisfy this factor); *accord*  
20 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002). Courts “need not  
21 exhaust every sanction short of dismissal before finally dismissing a case, but  
22 must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779  
23 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed  
24 until and unless Thompson either files a fully complete application to proceed *in*  
25 *forma pauperis* for non-inmates or pays the \$402 filing fee for a civil action, the  
26 only alternative is to enter a second order setting another deadline. But the reality  
27 of repeating an ignored order is that it often only delays the inevitable and  
28 squanders the Court's finite resources. The circumstances here do not indicate

1 that this case will be an exception. Setting a second deadline is not a meaningful  
2 alternative given these circumstances. So the fifth factor favors dismissal.

3 **II. CONCLUSION**

4 Having thoroughly considered these dismissal factors, the Court finds that  
5 they weigh in favor of dismissal. It is therefore ordered that this action is  
6 dismissed without prejudice based on William L. Thompson's failure to file a fully  
7 complete application to proceed *in forma pauperis* for non-inmates or pay the full  
8 \$402 filing fee in compliance with this Court's March 13, 2024, order. The Clerk  
9 of Court is directed to enter judgment accordingly and close this case. No other  
10 documents may be filed in this now-closed case. If William Thompson wishes to  
11 pursue his claims, he must file a complaint in a new case.

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13 DATED THIS 29<sup>th</sup> day of April 2024.

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15 ANNE R. TRAUM  
16 UNITED STATES DISTRICT JUDGE  
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